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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/755,424	01/05/2001	Donald S. Guzik	1416.33US01	4784

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EXAMINER

JOHNSON, JONATHAN J

ART UNIT	PAPER NUMBER
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1725

DATE MAILED: 07/17/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/755,424

Applicant(s)

GUZIK, DONALD S.

Examiner

Jonathan Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 6-24-03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) 2-5,9,13-48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6-8,10-12 and 49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-49 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election of Group IIIa, Claims 1, 6-8, 10-12, and 49 in Paper No. 14 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 6-8, 10-13, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jansen (6,528,006) in view of Yamane et al. (5,875,004). With respect to Claim 1, Jansen teaches a method for producing a prosthesis having at least partially cutting a material segment with a beam (abstract). Yamane et al. teach the cutting is controlled by a process control unit to cut the material to correspond to a target image (Yumane et al.; Column 2, lines 40 through Column 4, Line 25). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Jansen in order to utilize a process control method in order to automatically execute a visual inspection (Yumane et al.; column 1, lines 10-20).

With respect to Claim 6, the teachings of Jansen and Yamane et al. are the same as relied upon in the rejection of Claim 1. Jansen teaches the target image has a leaflet section (Column 1, Lines 10-20).

With respect to Claim 7, the teachings of Jansen and Yamane et al. are the same as relied upon in the rejection of Claim 1. Yamane et al. teach the target image is determined by a) forming a digital image of the material segment (Column 5, Lines 59-60); b) comparing the digital image to a target image to evaluate the difference between the digital image and the target image (Column 5, Lines 60-65); and c) determining a cutting pattern based on the difference (Column 6, lines 5-18). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Jansen in order to utilize a process control method in order to automatically execute a visual inspection (Yamane et al.; column 1, lines 10-20).

With respect to Claim 8, the teachings of Jansen and Yamane et al. are the same as relied upon in the rejection of Claim 7. Yamane et al. teach the digital image is formed using a video camera (Column 5, Lines 60 through Column 6, lines 17). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Jansen in order to utilize a video camera in order to automatically execute a visual inspection (Yamane et al.; column 1, lines 10-20).

With respect to Claim 10, the teachings of Jansen and Yamane et al. are the same as relied upon in the rejection of Claim 7. Yamane et al. teach the cutting pattern involves forming the cutting pattern based on the border between the digital image and the target image (Column 6, Lines 5-17). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Jansen in order to utilize a process control method in order to automatically execute a visual inspection (Yamane et al.; column 1, lines 10-20).

With respect to Claim 11, the teachings of Jansen and Yamane et al. are the same as relied upon in the rejection of Claim 7. Yamane et al. teach the cutting pattern is selected to avoid cutting any material that forms a portion of the target object (Yamane et al; column 6, Lines 5-19). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Jansen in order to utilize a process control method in order to automatically execute a visual inspection (Yamane et al.; column 1, lines 10-20).

With respect to Claim 12, the teachings of Jansen and Yamane et al. are the same as relied upon in the rejection of Claim 7. Yamane et al. teach orienting the digital image relative to the target image prior to comparing the digital image with the target image (Yamane et al.; column 5, line 55 through column 6, Line 20).

With respect to Claim 49, Jansen teaches cutting the tissue sheet to separate portions of the tissue sheet with a thickness outside of a selected range; wherein the imaging is performed with a laser (abstract and Column 1, lines 14-20). Yamane et al. teach the cutting is controlled

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by a process control unit to cut the material to correspond to a target image (Yumane et al.; Column 2, lines 40 through Column 4, Line 25). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Jansen in order to utilize a process control method in order to automatically execute a visual inspection (Yumane et al.; column 1, lines 10-20).

### *Conclusion*

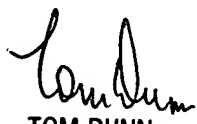
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Johnson whose telephone number is 703-308-0667. The examiner can normally be reached on M-Th 7AM-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on 703-308-3318. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

jj  
July 3, 2003

  
TOM DUNN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700